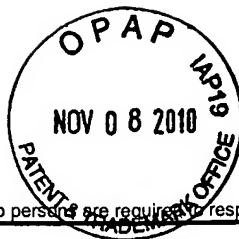


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PTO/SB/33 (12-08)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

10400-000191/US

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Application Number

10/554,085

Filed

July 26, 2006

First Named Inventor

Thore BRYNIELSSON

Art Unit

3664

Examiner

Mingjen Jen

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 34,313

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____


Signature

Donald J. Daley

Typed or printed name

703-668-8000

Telephone number

November 8, 2010

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT
10400-000191/US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPELLANTS: Thore BRYNIELSSON CONF. NO.: 2879
SERIAL NO.: 10/554,085 GROUP: 3664
FILED: July 26, 2006 EXAMINER: Mingjen Jen
FOR: METHOD FOR VEHICLE COMMUNICATION

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

November 8, 2010

Mail Stop: AF

REASONS FOR PRE-APPEAL REQUEST FOR REVIEW

Dear Sir:

In response to the Office Action mailed on June 8, 2010 ("Office Action"), Applicants request that the Pre-Appeal Brief Review Panel (hereinafter Panel) review the pending rejections. The Reasons for Pre-Appeal Brief Request for Review are being filed concurrently with the Pre-Appeal Brief Request for Review and a Notice of Appeal.

Claims 1-3, 5-9, 11 and 13-18 are pending in the current Application, and claims 1-3, 5-9, 11 and 13-18 stand rejected.

Initially, please see Applicants' statements set out in the Amendment filed November 4, 2010 as reflected by the Applicants' remarks beginning on page 6 and in the Amendment filed December 16, 2009 with regard to the Rejections under 35 U.S.C. § 102. Claim 1 is a representative claim.

Applicants note, claim 10 was cancelled by the Amendment filed November 4, 2010 rendering the 35 U.S.C. § 112 rejection moot.

Rejections For Which Conference Is Requested

A Pre-Appeal Brief Conference is respectfully requested to review the rejection to claims 1-18 stand rejected under 35 U.S.C. § 102(e) as being anticipated by US Patent Publication 2005/0190080 to Flick ("Flick"). Applicants respectfully note claims 1-3, 5-9, 11 and 13-18 are pending. For the reasons detailed below, withdrawal of the current rejections is requested.

FLICK DOES NOT DISCLOSE "ADAPTING THE COMMUNICATION BASED ON SAID PARAMETERS, THE ADAPTING INCLUDES SHIFTING BETWEEN A TIME-CONTROLLED COMMUNICATION AND A DISTANCE-CONTROLLED COMMUNICATION," AS REQUIRED BY CLAIM 1.

The Examiner relies on paragraphs [0222]-[0237] of Flick in rejecting the aforementioned feature. Applicants respectfully disagree. At most, these paragraphs teach varying a **rate of transmission indicating a time-controlled communication** and that a tracking device may wait until a vehicle's position has changed if no acknowledgement has been received after sending an alert indication.

An Examiner interview was conducted on October 29, 2010. Applicants' representative discussed the above referenced paragraphs of Flick with the Examiner. Further, Applicants' representative discussed the field of invention of Flick as being directed to a tracking and alerting system for a vehicle. For example, if a vehicle is stolen, Flick observes that it would be beneficial to know the vehicles location so that authorities can be directed to the vehicle. See Flick paragraphs [0002]-[0003].

By contrast, the claimed invention is directed to communications between a vehicle and a stationary system as the vehicle travels along a route. For example, the Panel is directed to the subject specification as filled page 4, line 9 to page 6, line 9.

Paragraphs [0222]-[0223] of Flick describe varying the rate of transmission. In a first variation, the **rate of transmission** is reduced in an area where a user has a lesser interest in quickly updated information. Alternatively, the user may have a reduced interest in an area that is outside a predetermined distance from a reference point. Therefore, in the reduced interest area the **rate of transmission** is reduced. In a second variation, the **rate of transmission** is increased if the vehicle's speed is above a preset speed. Clearly Flick describes varying the rate of transmission which indicates a time controlled communication, **not** "shifting between a time-controlled communication and a distance-controlled communication," as required by claim 1. The Examiner indicated that he agreed that only a rate of transmission is changed by this disclosure. However, the Examiner would not withdraw the rejection based on the discussion.

Further, paragraph [0224] of Flick teaches that the tracking device sends an alert indication a set number of times without receiving an acknowledgement. The tracking device then **waits until the vehicle changes position** before sending another alert. Flick teaches that this process conserves power while a vehicle is obstructed by not sending alerts when the vehicle is unreachable. Clearly, Flick describes stopping alert transmissions when a vehicle's communication is obstructed, **not** "adapting the communication based on said parameters, the adapting includes shifting between a time-controlled communication and a distance-controlled communication," as required by claim 1. The Examiner indicated that he agreed that a transmission is stopped when the transmission is obstructed. However, the Examiner would not withdraw the rejection based on the discussion.

Still further, paragraphs [0226]-[0237] of Flick describe using codes on a control channel to turn a feature on or off. For example, a feature may be deactivating

a receiver due to a non-paying customer. As a further example, reporting an excessive speed can be turned off. Paragraphs [0226]-[0237] of Flick do not teach the aforementioned feature of claim 1. The Examiner indicated that he agreed that a number of codes are disclosed by Flick. However, the Examiner would not withdraw the rejection based on the discussion.

Because Flick does not teach or suggest each and every feature of claim 1, Flick does not anticipate or render claim 1 obvious. Claims 2-3, 5-11 and 13-18 are patentable at least by virtue of their dependency from claim 1.

The Applicants, therefore, respectfully request the Pre-Appeal Brief Review Panel withdraw the rejection to claims 1-3, 5-9, 11 and 13-18 under 35 U.S.C. § 102(e).

CONCLUSION

In view of the remarks, reconsideration of the objections and rejections and allowance of each of the pending claims in connection with the present application is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Pre-Appeal Brief Review Board is respectfully requested to contact the undersigned at the telephone number. If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, PLC

By


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DJD/EPS:lfb

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